

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:13-cr-0036-JMS-TAB
)	
CHRISTOPHER SCOTT MOORE,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On April 23, 2021, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on April 14, 2021. Defendant Moore appeared in person with his appointed counsel Dominic Martin. The government appeared by Nick Linder, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Jason Phillips.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Moore of his rights and provided him with a copy of the petition. Defendant Moore orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Moore admitted violation numbers 1, 2, 3, 4, and 5. [Docket No. 92.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1	<p>“You shall report to the probation officer in a manner and frequency directed by the court or probation officer.”</p> <p>Mr. Moore was last seen by the probation officer at his residence on March 16, 2021. Subsequent attempts to locate him there on March 25, and April 7, 2021, were unsuccessful. On March 29, 2021, a letter was sent to the offender directing him to contact his officer by April 5, 2021. To date, he has made no contact with the probation officer. Further attempts have been made to reach him via phone and text, as well as listed collateral contacts, to no avail. The offender's current whereabouts are unknown.</p>
2	<p>“You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.”</p> <p>The offender last reported employment at a local staffing agency. On April 12, 2021, the probation officer was advised by the employer Mr. Moore failed to report for a work assignment on March 15, 2021, and attempts to reach him have been unsuccessful.</p>
3	<p>“You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licenses medical practitioner.”</p> <p>On March 16, 2021, the offender rendered a urine sample which tested positive for amphetamines. At the time the sample was collected, he reported no use of prescription medication.</p>
4	<p>“You shall use or possess alcohol.”</p> <p>On March 16, 2021, during a routine home inspection, Mr. Moore was found in possession of alcohol, namely beer. He admitted to purchasing and consuming alcohol that date.</p>
5	<p>“You must comply with the requirements of the Sex Offender Registration Act (42 U.S.C. § 16901. et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or where convicted of a qualifying offense.”</p>

On April 13, 2021, per communication with the Marion County, Indiana, Sheriffs Office, it was learned the offender failed to update the sex offender registry as required on April 10, 2021.

4. The parties stipulated that:
 - (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant's criminal history category is VI.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 21 to 24 months' imprisonment.
5. The parties jointly recommended a sentence of sixteen (16) months imprisonment with twenty-four (24) months of supervised release to follow. Defendant requested placement at USP Marion.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of sixteen (16) months imprisonment with twenty-four (24) months of supervised release to follow. In addition to the mandatory conditions of supervision, the following conditions of supervised release will be imposed:

1. You shall report to the probation office in the district to which you are released within 72 hours of release from the custody of the Bureau of Prisons.
2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer.
3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.
4. You shall not knowingly leave the judicial district without the permission of the court or probation officer.
5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.

6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in residence occupants, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.
10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
12. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.
13. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.

Justification: Conditions 1-13 are considered administrative in nature and will enable the probation officer to effectively supervise the offender within the community.

14. You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.
15. You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods.

16. You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (provider, location, modality, duration, intensity, etc.). The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.

17. You shall not use or possess alcohol.

Justification: Conditions 14-17 are recommended given the offender's history of substance abuse. These conditions will assist in monitoring his sobriety and in provided substance abuse services if necessary.

18. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.

Justification: This condition is recommended given the offender's criminal history, and substance abuse. This will assist in monitoring his compliance on supervision and add a measure of protection for the community.

19. You shall not have unsupervised meetings, activities, or visits, or intentional communications with any minor unless they have been disclosed to the probation officer and approved by the court. You shall not have supervised meetings, activities, visits, or intentional communications with any minor unless they have been approved by the probation officer. Before you may request approval for such meetings, activities, visits, or intentional communications (unsupervised or supervised), you must notify the person(s) having custody of any such minor(s) about the conviction in this case and the fact that you are under supervision.

20. You shall not be employed in any position or participate as a volunteer in any activity that involves unsupervised meetings, intentional communications, activities, or visits with minors except as disclosed to the probation officer and approved by the court.

21. You shall not enter or remain at a place for the primary purpose of observing or contacting children under the age of 18.

22. You shall not possess any child pornography or visual depictions of child erotica or nude minors. Any such material found in your possession shall be considered contraband and will be confiscated by the probation officer.

23. You shall register as a sex offender with the appropriate authorities of any state in which you reside, are employed or attend school.

Justification: Conditions 19-23 are recommended given the offender's criminal history, including a prior conviction for a sex offense involving a minor aged victim. These will assist in monitoring his compliance on supervision and add a measure of protection for the community.

24. You shall participate in a mental health treatment program, as approved by the probation officer, and abide by the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). You shall take all mental health medications that are prescribed by your treating physician. The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.

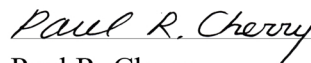
Justification: Given a prior diagnosis of manic depressive disorder, as well as previously being prescribed a psychotropic medication, it is recommended Mr. Moore participate in mental health treatment as needed.

Defendant reviewed the foregoing conditions and they were reviewed by Defendant with his attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised release.

The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Magistrate Judge will make a recommendation of placement at USP Marion.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 4/23/2021


Paul R. Cherry
United States Magistrate Judge
Southern District of Indiana

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